



Agenda Date: 10/12/01
Agenda Item: 3B

STATE OF NEW JERSEY
Board of Public Utilities

Two Gateway Center
Newark, NJ 07102

IN THE MATTERS OF COMCAST)	<u>CABLE TELEVISION</u>
CABLEVISION OF WILDWOOD, INC. FOR)	
APPROVAL OF THE FILING OF FCC FORM)	
1205 DETERMINING REGULATED)	
EQUIPMENT AND INSTALLATION COSTS)	ORDER ADOPTING STIPULATION
USING THE OPTIONAL EXPEDITED RATE)	
PROCEDURES AND A REQUEST FOR A)	
WAIVER OF NOTICE REQUIREMENT)	
PURSUANT TO N.J.A.C 14:18-3.16(b) <u>NUNC</u>)	DOCKET NOS. CR01030148
<u>PRO TUNC</u>)	CO01070457

(SERVICE LIST ATTACHED)

BY THE BOARD:

On March 1, 2001, AT&T Cable Services ("AT&T"), the prior owner of the Gloucester, Maple Shade and Wildwood systems ("systems") filed an aggregate Federal Communications Commission ("FCC") Form 1205, Docket Number CR01030148, for regulated equipment and installation costs for the systems pursuant to the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. § 543 et seq., and provisions of the New Jersey Cable Television Act, N.J.S.A. 48:5A-1 et seq.

On April 27, 2001, in Docket Number CM00110923, the Board approved the transfer of assets from AT&T to Comcast Cablevision of Wildwood, Inc. ("Petitioner") for the systems.

The Board, at its public meeting on January 10, 1996, in Docket Number CX95120636, approved the implementation of Optional Expedited Rate Procedures for the processing of certain filings made with the Office of Cable Television ("OCTV"). The intended purpose of these procedures is to grant final rates as quickly as possible to any cable company that chooses this process. In the spirit of cooperation based on the principles of Alternate Dispute Resolution ("ADR"), the discovery content is limited, thereby reducing the timeframe for settlement.

As the new owner of these systems, Petitioner chose to pursue the aggregate filing with the Board through the approved procedures. To that end, a pre-transmittal conference was held on July 16, 2001 and attended by representatives of the Petitioner, the Division of the Ratepayer Advocate and Board Staff (collectively, "the Parties"). Petitioner agreed to waive its Office of Administrative Law ("OAL") litigation rights in this matter. It should be noted that Petitioner's

waiver was a knowing, voluntary and intelligent waiver of its litigation rights at the OAL and that the waiver did not constitute a circumvention of the FCC rules nor did it affect Petitioner's right to appeal in that forum.

Petitioner notified customers of the systems of the rate changes by way of newspaper announcements informing them of their opportunity to submit written comments to the Board for a period of thirty days. The notices appeared in the Maple Shade Progress on August 10, 2001, the Cape May Gazette and the Wildwood Leader on August 15, 2001 and the Gloucester City News on August 16, 2001. These notices were only for the rates changes under Docket Number CR01030147. During this time, no comments were received as a result of these public notices.

Upon review by Staff and the Ratepayer Advocate of the supporting documentation, schedules and other discovery requests, it was agreed that Petitioner would refund all affected subscribers in the Gloucester and Maple Shade systems for overcharges set forth in Schedule B of the Stipulation. A settlement conference was held on July 26, 2001. On September 24, 2001, the Parties entered into a Stipulation of Settlement.

The refunds of \$3, 246.72, inclusive of interest, will be a one-time bill credit to the following: 1) 410 subscribers due to an overcharge in connecting a VCR for an average of \$6.46 per subscriber; 2) 346 subscribers due to an overcharge in an additional outlet installation amounting to \$.47 per subscriber; and 3) 21,048 subscribers due to an overcharge of the monthly home wire maintenance fee totaling \$.02 per subscriber.

Petitioner, under Docket Number CO01070457, by letter dated July 20, 2001, requested a waiver of the requirement to reduce rates pursuant to N.J.A.C. 14:18-3.16(b) as permitted under FCC rate regulatory policy for the decrease in certain rates as a result of the settlement.

The Board has reviewed the Stipulation and FINDS it to be reasonable, in the public interest and in accordance with the law. Therefore, the Board HEREBY ADOPTS the Stipulation of Settlement (attached hereto) as its own, incorporating by reference the terms and conditions therein as if fully set forth at length herein.

The Board, therefore, DIRECTS Petitioner to issue the refund due its subscribers in the Gloucester and Maple Shade systems pursuant to the Stipulation of Settlement within sixty (60) days of the date of this Order, and to inform the subscribers of the reason for the refund. Said refund shall be denominated "BPU Refund" on subscribers' bills.

Petitioner, within ten (10) days of the final payment of the refund to subscribers, is HEREBY ORDERED to notify the Office of Cable Television in writing of the date the refund was paid, the total amount refunded and to certify that the refund has been completed.

In addition, the Board APPROVES the waiver of N.J.A.C. 14:18-3.16(b) nunc pro tunc.

The Board FURTHER ORDERS that should the systems, or any part thereof, merge, and/or migrate to another system, be upgraded and/or rebuilt, its ownership or control be otherwise sold or transferred to another entity, the basic service tier rate that will be eliminated or superseded as a result of the merger, migration, upgrade, rebuild, sale or transfer must be "trued-up" [47 C.F.R. § 76.922 (e) (3)]. The final true-up for the affected system, or any part thereof, should be calculated on FCC Form 1240 and begin where the last true-up period ended on its prior FCC

Form 1240. This true-up calculation shall be filed with the Board when all the affected subscribers are being charged the rate resulting from the merger, migration, upgrade, rebuild, sale or transfer and may be filed in conjunction with the annual rate adjustment cycle (Form 1240) established as a result of said merger, migration, upgrade, rebuild, sale or transfer.

The cable system, or any part thereof, may be subsequently deregulated as a result of a finding by the Board, the FCC or other party of competent jurisdiction, that the system, or any portion thereof, is subject to effective competition. Should that be the case, the last basic service rate established as a result of a prior FCC Form 1240 or such subsequent rate calculation method as may be heretofore adopted by the Board, the FCC or other party of competent jurisdiction, prior to the deregulation of any rate that is now or may in the future be subject to the Board's jurisdiction, must be trued-up for the period of time that the affected rates were subject to regulation by the Board.

DATED: October 15, 2001

BOARD OF PUBLIC UTILITIES
BY:

(signed)

CONNIE O. HUGHES
PRESIDENT

(signed)

FREDERICK F. BUTLER
COMMISSIONER

(signed)

CAROL J. MURPHY
COMMISSIONER

ATTEST:

(signed)

FRANCES L. SMITH
SECRETARY

IN THE MATTER OF
COMCAST CABLEVISION OF WILDWOOD, INC.
FCC FORM 1205 USING THE OPTIONAL EXPEDITED
RATE PROCEDURES/REQUEST FOR WAIVER ~~NUNC PRO TUNC~~
OF NOTICE REQUIREMENT FOR RATE REDUCTIONS

DOCKET NUMBERS: CR01030148, CO01070457

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